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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,064	11/02/2005	Andreas Schmidt	071308.1124	7573
86528	7590	12/10/2009		
King & Spalding LLP 401 Congress Avenue Suite 3200 Austin, TX 78701			EXAMINER TORRES, MARCOS L	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 12/10/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,064

Applicant(s)

SCHMIDT ET AL.

Examiner

MARCOS L. TORRES

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 10-16-09

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.
2. Applicant's representative [hereinafter applicant] arguments about the combination of Alperovich a combination with the references would bring a system that is capable of blocking the message after the message is received or after the notification is received but before the delivery to the mobile device. Also under a different interpretation the claim does not limit that a previous message was sent and added to the rejection list, thereby future messages would also be blocked before delivery. And regarding the argument about combination with a system which a recipient can decide selectively, a person skilled in the art would take the selective recipient system of Alperovich and modify it to work with anonymous user for the simple purpose of compatibility with existing standards which permit the anonymous user.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alperovich US006101393A in view of Bedingfield 20020110227.

As to claims 39-40, Alperovich discloses a method/system for blocking undesirable messages in a mobile radio system (see col. 1, lines 7-10), the method comprising: receiving a message from a sender at a service provider (see col. 3, lines 37-45); transmitting the message and a identification signal from the service provider to

a recipient serviced by the service provider, the identification signal comprising an alias [alternative] name for the sender (see col. 3, lines 50-66; col. 6, lines 15-20), and receiving a request from the recipient to add the sender to a list of exclusions, wherein the request comprises at least the identification signal; and based at least on the identification signal, adding the sender to the list of exclusion (see col. 5, lines 51-66). Alperovich discloses that other alternatives names can be used (see col. 6, lines 15-20); however it is unclear if with the use of those alternative names the user can still identify the sender. In an analogous art Bedingfield discloses wherein the service provider transmits the message anonymously to the recipient and receives notification if the recipient wants to have the sender of the message put on a list of exclusions wherein the identification signal is usable by the service provider but not the recipient for identifying the anonymous user [envelope information which can be used for reply] (see par 0062-0067). Therefore, it would be obvious to one of the ordinary skill in the art at the time of the invention to combine these teachings to properly route and treat all messages according to their respective setting, thereby blocking undesirable message while keeping the anonymity of the sender (par. 0007).

7. Claims 23-28, 30-36 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alperovich US006101393A in view of Bedingfield 20020110227 and further in view of 3G TS 23.140 V3.0.1 (2000-03) 3rd Generation Partnership Project; Technical Specification Group Terminals; Multimedia Messaging Service (MMS); Functional description; Stage 2 (Release 1999).

As to claim 23, Alperovich discloses a method for blocking undesirable messages in a mobile radio system (see col. 1, lines 7-10), the method comprising: receiving an anonymous message and identification signal from a sender at a service provider (see col. 3, lines 37-45); and transmitting the message from the service provider to a recipient serviced by the service provider (see col. 3, lines 50-66); receiving a request from the recipient to the service provider, the request comprising at least the identification signal if the recipient wants to have the sender of the message put on a list of exclusions; and adding the sender to the list of exclusion based at least on the identification signal (see col. 5, lines 51-66). Alperovich discloses that other alternatives names can be used (see col. 6, lines 15-20); however it is unclear if with the use of those alternative names the user can still identify the sender. In an analogous art Bedingfield discloses wherein the service provider transmits the message anonymously to the recipient and receives notification if the recipient wants to have the sender of the message put on a list of exclusions wherein the identification signal is usable by the service provider but not the recipient for identifying the anonymous user [envelope information which can be used for reply] (see par 0062-0067). Therefore, it would be obvious to one of the ordinary skill in the art at the time of the invention to combine these teachings to properly route and treat all messages according to their respective setting, thereby blocking undesirable message while keeping the anonymity of the sender (par. 0007). The prior references fail to disclose the message available notification notifying the recipient that the message is ready for download by the recipient such that the message is not received by the recipient. In another analogous

art, 3G TS 23.140 V3.0.1 (2000-03) 3rd Generation Partnership Project; Technical Specification Group Terminals; Multimedia Messaging Service (MMS); Functional description; Stage 2 (Release 1999) discloses the message available notification notifying the recipient that the message is ready for download by the recipient such that the message is not received by the recipient (see sec 7.3). Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to send a notification message to permit the user decide if he is really interested in the message without the need to download the message.

As to claim 24, Alperovich discloses a method for blocking undesirable messages in a mobile radio system wherein the list of exclusions is managed by the service provider (see col. 5, lines 22-25).

As to claim 25, Alperovich discloses a method for blocking undesirable messages in a mobile radio system wherein the list of exclusions is a personal, individual list of exclusions of the recipient (see col. 6, lines 7-9).

As to claim 26, Alperovich discloses a method for blocking undesirable messages in a mobile radio system wherein the list of exclusions is a general list of exclusions that is taken into consideration for at least one of all recipients and groups of recipients (see col. 6, lines 7-10).

As to claim 27, Alperovich discloses a method for blocking undesirable messages in a mobile radio system wherein the request sent to the service provider includes to the service provider is formed as a self-contained abstract message

(message that contain the "identification signal" (name of sender); see col. 5, lines 51-66).

As to claim 28, Alperovich discloses a method for blocking undesirable messages in a mobile radio system wherein the identification signal sent to the service provider is integrated in the abstract message in the information element form (message that contain the "identification signal" (name of sender); see col. 5, lines 51-66).

As to claim 29, Alperovich discloses the method for blocking undesirable messages in a mobile radio system wherein the identification signal to the service provider is contained in user data of Message (see col. 5, lines 51-66). The first two references do not specifically disclose that the message is a Multimedia Message. In an analogous art, 3G TS 23.140 V3.0.1 (2000-03) 3rd Generation Partnership Project; Technical Specification Group Terminals; Multimedia Messaging Service (MMS); Functional description; Stage 2 (Release 1999) discloses sending a Multimedia Message to send a notification to the service provider (see sec 7.3). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use a Multimedia Message to send the notification to the service provider in order to be compatible with the MMS standard.

As to claim 30, Alperovich discloses a method for blocking undesirable messages in a mobile radio system wherein the request sent to the service provider contains further information for the filter functionality, including at least a type of the list of exclusions and time limitations (see col. 5, lines 22-50; col. 6, lines 7-9).

As to claim 31, Alperovich discloses a method for blocking undesirable messages in a mobile radio system (see col. 1, lines 7-10), the method comprising: receiving an anonymous message and identification signal from a sender at a service provider (see col. 3, lines 37-45); and transmitting the message from the service provider to a recipient serviced by the service provider (see col. 3, lines 50-66); receiving a request from the recipient to the service provider, the request comprising at least the identification signal if the recipient wants to have the sender of the message put on a list of exclusions; and adding the sender to the list of exclusion based at least on the identification signal (see col. 5, lines 51-66). Alperovich discloses that other alternatives names can be used (see col. 6, lines 15-20); however it is unclear if with the use of those alternative names the user can still identify the sender. In an analogous art Bedingfield discloses wherein the service provider transmits the message anonymously to the recipient and receives notification if the recipient wants to have the sender of the message put on a list of exclusions wherein the identification signal is usable by the service provider but not the recipient for identifying the anonymous user, wherein the identification signal includes a reference to a storage location and a message identification element [envelope information which can be used for reply] (see par 0062-0067). Therefore, it would be obvious to one of the ordinary skill in the art at the time of the invention to combine these teachings to properly route and treat all messages according to their respective setting, thereby blocking undesirable message while keeping the anonymity of the sender (par. 0007). The prior references fail to disclose the message available notification notifying the recipient that the message is ready for

download by the recipient such that the message is not received by the recipient. In another analogous art, 3G TS 23.140 V3.0.1 (2000-03) 3rd Generation Partnership Project; Technical Specification Group Terminals; Multimedia Messaging Service (MMS); Functional description; Stage 2 (Release 1999) discloses the message available notification notifying the recipient that the message is ready for download by the recipient such that the message is not received by the recipient (see sec 7.3). Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to send a notification message to permit the user decide if he is really interested in the message without the need to download the message.

Regarding claims 32-36 and 38, they are the corresponding system claims of method claims 24-28 and 30. Therefore, claims 32-36 and 38 are rejected for the same reasons shown above.

Regarding claim 37 is the corresponding system claim of method claim 29. Therefore, claim 37 is rejected for the same reason shown above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARCOS L. TORRES whose telephone number is (571)272-7926. The examiner can normally be reached on 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-252-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marcos L Torres/

Examiner, Art Unit 2617

/George Eng/

Supervisory Patent Examiner, Art Unit 2617